

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

WIND AND WOOD CONDOMINIUM  
ASSOCIATION, a Washington Non-Profit  
Corporation,

Plaintiff,

v.

COUNTRY CASUALTY INSURANCE  
COMPANY, an Illinois Corporation; COUNTRY  
MUTUAL INSURANCE COMPANY, an Illinois  
Corporation; and DOE INSURANCE  
COMPANIES 1–10,

Defendants.

NO.

COMPLAINT FOR DECLARATORY  
RELIEF, BAD FAITH, CONSUMER  
PROTECTION ACT VIOLATIONS, AND  
DAMAGES

JURY DEMAND

The Wind and Wood Condominium Association (the “Association”) alleges as follows:

**I. INTRODUCTION**

1.1 This is an action for declaratory judgment, bad faith violations, Consumer Protection Act (“CPA”) violations, and money damages seeking:

(A) A declaration of the rights, duties, and liabilities of the parties with respect to certain controverted issues under insurance policies issued to the Association by Defendants Country Casualty Insurance Company and Country Mutual Insurance Company (collectively “Country Mutual”). The Association is seeking a ruling that the Country Mutual policies provide coverage for hidden damage at the Wind and Wood Condominiums and that Country Mutual is

liable for money damages for the cost of repairing hidden damage at the Wind and Wood Condominiums.

(B) Damages for bad faith and violations of the CPA against Country Mutual.

(C) Attorneys' fees and costs (including expert witness fees) against Country Mutual.

(D) Any other relief the Court deems just and equitable.

## II. PARTIES AND INSURANCE CONTRACTS

2.1 The Association. The Association is a nonprofit corporation organized under the laws of the state of Washington with its principal place of business located in Edmonds, Washington. The Association has the duty to maintain the common elements and any limited common elements of the Wind and Wood Condominiums. The Wind and Wood Condominiums consists of two (2) buildings containing twenty-four (24) units located in Edmonds, Washington.

2.2 Country Casualty Insurance Company. Country Casualty Insurance Company is an Illinois domiciled insurer with its principal place of business in Bloomington, Illinois. Country Casualty Insurance Company is registered and authorized to sell insurance in Washington. The Association is seeking coverage against any policy Country Casualty Insurance Company issued to the Association or which covers the Wind and Wood Condominiums.

2.3 Country Mutual Insurance Company. Country Mutual Insurance Company is an Illinois domiciled insurer with its principal place of business in Bloomington, Illinois. Country Mutual Insurance Company is registered and authorized to sell insurance in Washington. The Association is seeking coverage against any policy Country Mutual Insurance Company issued to the Association or which covers the Wind and Wood Condominiums.

2.4 Insurance Policies WA0200216265-00 and WA0200216265-01. Insurance policies WA0200216265-00 (in effect from August 18, 2018, through August 18, 2019) and WA0200216265-01 (in effect from August 18, 2019, through August 18, 2020) were sold by Country Casualty Insurance Company and Country Mutual Insurance Company to the Association. Insurance policies WA0200216265-00 and WA0200216265-01 identify the Wind and Wood Condominiums as covered property. Upon information and belief, insurance policies

WA0200216265-00 and WA0200216265-01 were issued by Country Casualty Insurance Company but were signed by Country Mutual Insurance Company. Upon information and belief, the Association alleges that Country Mutual Insurance Company is the successor in interest to Country Casualty Insurance Company and is liable for all damages owed under the Country Casualty Insurance Company policies.

2.5 Doe Insurance Companies 1–10. Doe Insurance Companies 1–10 are currently unidentified entities who, on information and belief, sold insurance policies to the Association that identify the Wind and Wood Condominiums as covered property.

2.6 Wind and Wood Insurers. Country Casualty Insurance Company, Country Mutual Insurance Company, and Doe Insurance Companies 1–10 shall be collectively referred to as the “Wind and Wood Insurers.”

2.7 Wind and Wood Policies. The policies issued to the Association by the Wind and Wood Insurers shall be collectively referred to as the “Wind and Wood Policies.”

### III. JURISDICTION AND VENUE

3.1 This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 (diversity jurisdiction) as the parties are completely diverse in citizenship and the amount in controversy exceeds \$75,000.

3.2 Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) as the Wind and Wood Insurers marketed and sold insurance to the Association in Snohomish County; a substantial part of the events giving rise to the claim occurred in Snohomish County; and the insured condominium buildings are located in Snohomish County.

### IV. FACTS

4.1 Incorporation by Reference. The Association re-alleges the allegations of Paragraphs 1.1 through 3.2, above, as if fully set forth herein.

4.2 Tender to Country Mutual. On July 31, 2020, the Association tendered an insurance claim to Country Mutual for recently discovered hidden damage to underlying building components at

the Wind and Wood Condominiums. The Association requested that Country Mutual investigate for any additional hidden damage at the Wind and Wood Condominiums.

4.3 Joint Intrusive Investigation. The Association retained a building envelope consultant, Evolution Architecture (“Evolution”), to investigate the extent of hidden damage at the Wind and Wood Condominiums. Evolution, in conjunction with the Association’s historic property insurers, including Country Mutual, subsequently performed an intrusive investigation at the Wind and Wood Condominiums. The joint intrusive investigation revealed system-wide damage to the underlying building components including, but not limited to, the weather-resistive barrier, sheathing, and framing at the Wind and Wood Condominiums. According to Evolution, hidden damage at the Wind and Wood Condominiums has occurred incrementally and progressively each year, and some new loss or damage commenced during each year of the Wind and Wood Policies. It is expected that similar levels of damage would be found at other locations not investigated at the Wind and Wood Condominiums. The Association’s experts have opined that the cost to repair the hidden damage at the Wind and Wood Condominiums is in excess of \$2,100,000.00, well over the jurisdictional limit of \$75,000.

**V. FIRST CLAIM AGAINST THE WIND AND WOOD INSURERS:  
DECLARATORY RELIEF THAT THE WIND AND WOOD POLICIES PROVIDE  
COVERAGE**

5.1 Incorporation by Reference. The Association re-alleges and incorporates by reference the allegations of Paragraphs 1.1 through 4.3, above, as if fully set forth herein.

5.2 Declaratory Relief. The Association seeks declaratory relief from the Court in the form of determinations regarding the following disputed issues:

(A) That the Wind and Wood Policies cover the hidden damage to the underlying building components at the Wind and Wood Condominiums including, but not limited to, the weather-resistive barrier, sheathing, and framing.

(B) No exclusions, conditions, or limitations bar coverage under the Wind and Wood Policies.

(C) That the loss or damage to the Wind and Wood Condominiums was incremental and progressive. New damage commenced during each year of the Wind and Wood Policies.

(D) As a result, the Wind and Wood Policies cover the cost of investigating and repairing the hidden damage at the Wind and Wood Condominiums.

## **VI. SECOND CLAIM: AGAINST COUNTRY MUTUAL FOR INSURANCE BAD FAITH**

6.1 Incorporation by Reference. The Association re-alleges and incorporates by reference the allegations of Paragraphs 1.1 through 5.2, above, as if fully set forth herein.

6.2 The business of insurance is one affected by the public interest, requiring that all persons be actuated by good faith, abstain from deception, and practice honesty and equity in all insurance matters. RCW 48.01.030. An insurer has a duty to act in good faith. This duty requires an insurer to deal fairly with its insured. The insurer must give equal consideration to its insured's interests and its own interests and must not engage in any action that demonstrates a greater concern for its own financial interests than its insured's financial risk. An insurer who does not deal fairly with its insured, or who does not give equal consideration to its insured's interests, fails to act in good faith.

6.3 The duty of good faith requires an insurer to conduct a reasonable investigation before refusing to pay a claim submitted by its insured. An insurer must also have a reasonable justification before refusing to pay a claim. An insurer who refuses to pay a claim, without conducting a reasonable investigation or without having a reasonable justification, fails to act in good faith.

6.4 Country Mutual had a duty to investigate, evaluate, and decide the Association's claim in good faith. Country Mutual breached its duty by failing to promptly investigate the Association's claim and refusing to issue a coverage determination regarding the Association's claim. Further it has been over a year since the Association has submitted its claim, and Country Mutual has failed to disclose the coverage provided by its policies including that the policies cover damage from weather and wind-driven rain, cover loss or damage from the combination of wind-driven rain and

inadequate construction, and preserve coverage under the policies' resulting loss clause. Country Mutual's conduct violated Washington claims handling standards, which require Country Mutual to adopt and implement reasonable standards for the prompt investigation of claims. A violation, if any, of one or more Washington claims handling standards is a breach of the duty of good faith, an unfair method of competition, an unfair or deceptive act or practice in the business of insurance, and a breach of the insurance contract.

6.5 Country Mutual's actions and omissions were unreasonable, unfounded, and frivolous under the circumstances and constitute a breach of Country Mutual's duty of good faith. As a direct and proximate result of these breaches, the Association has been damaged in an amount to be proven at trial.

## **VII. THIRD CLAIM: AGAINST COUNTRY MUTUAL FOR VIOLATIONS OF THE CONSUMER PROTECTION ACT**

7.1 Incorporation by Reference. The Association re-alleges and incorporates by reference the allegations of Paragraphs 1.1 through 6.5, above, as if fully set forth herein.

7.2 Violations of Washington Administrative Code ("WAC") claims handling standards are per se CPA violations. On information and belief, Country Mutual's conduct was deceptive, impacted the public, and had the capacity to deceive. The Association is a consumer. As a direct and proximate result of Country Mutual's violations, the Association has been damaged in an amount to be proven at trial. Under the CPA, the Association is entitled to damages, CPA penalties of up to \$25,000 per violation, and attorneys' fees.

## **VIII. PRAYER FOR RELIEF**

WHEREFORE, the Association prays for judgment as follows:

8.1 Declaratory Judgment Regarding Coverage. A declaratory judgment that the Wind and Wood Policies provide coverage as described herein.

8.2 Money Damages. For money damages in an amount to be proven at trial.

8.3 Attorneys' Fees and Costs of Suit. For reasonable attorneys' fees and costs (including expert fees). *See Olympic Steamship Co. v. Centennial Ins. Co.*, 117 Wn.2d 37, 811 P.2d 673 (1991), and RCW 48.30.015.

8.4 CPA Penalties. For CPA penalties against Country Mutual of up to \$25,000 per violation.

8.5 Other Relief. For such other and further relief as the Court deems just and equitable.

**IX. DEMAND FOR JURY TRIAL**

9.1 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Association demands trial by jury in this action of all issues so triable.

Dated the 7th day of November, 2023.

**STEIN, SUDWEEKS & STEIN, PLLC**

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